

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

WALTER COLE MCNAIR, JR.,)
)
)
) CIVIL ACTION NO. 3:08-3117-HFF-JRM
Plaintiff,)
)
)
v.)
)
)
JON OZMINT, WILLIE EAGLETON,)
VICKY SHEEDY, MCKITHER BODISON,) **REPORT AND RECOMMENDATION**
FRED THOMPSON, J. RANDALL,)
ETHEL MILLER, ANN HALLMAN,)
YVETTE BLOWE, MS. WALKER,)
MS. CARTER, RANDESE GARLAND,)
REBECCA WENRICH, PENNY)
HAMBURGH, ANGELA DAVIS,)
LOLITA LEE, EDMUND HIGGINS,)
JOSEPH POWELL, DENISE)
NORWOOD, ANGELA WALKER,)
)
Defendants.)

)

This matter was filed by the Plaintiff, pro se, on September 12, 2008, wherein he alleged a violation of his constitutional rights under 42 U.S.C. § 1983.

On February 10, 2009, Plaintiff filed a motion with the Court for voluntary dismissal of this action, without prejudice. Pursuant to Rule 41(a)(1), Fed.R.Civ.P., an action may be dismissed by the Plaintiff without order of the Court by filing a notice of dismissal at any time before service by the Defendant(s) of an answer or of a motion for summary judgment. No responsive pleading has

been filed in this case. However, as the Plaintiff is proceeding pro se, rather than directing the Clerk to dismiss this action, the undersigned is issuing a Report and Recommendation for dismissal without prejudice pursuant to Rule 41(a)(1), Fed.R.Civ.P.

Plaintiff is herein specifically placed on notice that if he fails to file objections to this Report and Recommendation, his case will be dismissed.



Joseph R. McCrorey
United States Magistrate Judge

Columbia, South Carolina

February 12, 2009

The parties are referred to the Notice Page attached hereto.

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Court Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005).

Specific written objections must be filed within ten (10) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The time calculation of this ten-day period excludes weekends and holidays and provides for an additional three (3) days for filing by mail. Fed. R. Civ. P. 6(a) & (e). Filing by mail pursuant to Fed. R. Civ. P. 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
901 Richland Street
Columbia, South Carolina 29201

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).